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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/735,555	12/12/2003	Madan Lal Singla	FP 01715- NF 408/03/ASN/m	3914
7590 05/16/2006 Alfred D. Lobo & Co., L.P.A. 933 The Leader Building 526 Superior Avenue E Cleveland, OH 44114-1902			EXAMINER MERLINO, AMANDA H	
			ART UNIT 2877	PAPER NUMBER

DATE MAILED: 05/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/735,555	Applicant(s) SINGLA ET AL.	
	Examiner Amanda H. Merlino	Art Unit 2877	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 July 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>10/1/04</u> . | 6) <input type="checkbox"/> Other: _____  |

### ***Specification***

Applicant is reminded of the proper content of an abstract of the disclosure.

A patent abstract is a concise statement of the technical disclosure of the patent and should include that which is new in the art to which the invention pertains. If the patent is of a basic nature, the entire technical disclosure may be new in the art, and the abstract should be directed to the entire disclosure. If the patent is in the nature of an improvement in an old apparatus, process, product, or composition, the abstract should include the technical disclosure of the improvement. In certain patents, particularly those for compounds and compositions, wherein the process for making and/or the use thereof are not obvious, the abstract should set forth a process for making and/or use thereof. If the new technical disclosure involves modifications or alternatives, the abstract should mention by way of example the preferred modification or alternative.

The abstract should not refer to purported merits or speculative applications of the invention and should not compare the invention with the prior art.

Where applicable, the abstract should include the following:

- (1) if a machine or apparatus, its organization and operation;
- (2) if an article, its method of making;
- (3) if a chemical compound, its identity and use;
- (4) if a mixture, its ingredients;
- (5) if a process, the steps.

Extensive mechanical and design details of apparatus should not be given.

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

### **Arrangement of the Specification**

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC (See 37 CFR 1.52(e)(5) and MPEP 608.05. Computer

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program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text are permitted to be submitted on compact discs.) or

REFERENCE TO A "MICROFICHE APPENDIX" (See MPEP § 608.05(a). "Microfiche Appendices" were accepted by the Office until March 1, 2001.)

(f) BACKGROUND OF THE INVENTION.

(1) Field of the Invention.

(2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.

(g) BRIEF SUMMARY OF THE INVENTION.

(h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).

(i) DETAILED DESCRIPTION OF THE INVENTION.

(j) CLAIM OR CLAIMS (commencing on a separate sheet).

(k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).

(l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

### Content of Specification

- (a) Title of the Invention: See 37 CFR 1.72(a) and MPEP § 606. The title of the invention should be placed at the top of the first page of the specification unless the title is provided in an application data sheet. The title of the invention should be brief but technically accurate and descriptive, preferably from two to seven words may not contain more than 500 characters.
- (b) Cross-References to Related Applications: See 37 CFR 1.78 and MPEP § 201.11.
- (c) Statement Regarding Federally Sponsored Research and Development: See MPEP § 310.
- (d) The Names Of The Parties To A Joint Research Agreement: See 37 CFR 1.71(g).
- (e) Incorporation-By-Reference Of Material Submitted On a Compact Disc: The specification is required to include an incorporation-by-reference of electronic documents that are to become part of the permanent United States Patent and Trademark Office records in the file of a patent application. See 37 CFR 1.52(e) and MPEP § 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)),

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and tables having more than 50 pages of text were permitted as electronic documents on compact discs beginning on September 8, 2000.

Or alternatively, Reference to a "Microfiche Appendix": See MPEP § 608.05(a). "Microfiche Appendices" were accepted by the Office until March 1, 2001.

- (f) Background of the Invention: See MPEP § 608.01(c). The specification should set forth the Background of the Invention in two parts:
  - (1) Field of the Invention: A statement of the field of art to which the invention pertains. This statement may include a paraphrasing of the applicable U.S. patent classification definitions of the subject matter of the claimed invention. This item may also be titled "Technical Field."
  - (2) Description of the Related Art including information disclosed under 37 CFR 1.97 and 37 CFR 1.98: A description of the related art known to the applicant and including, if applicable, references to specific related art and problems involved in the prior art which are solved by the applicant's invention. This item may also be titled "Background Art."
- (g) Brief Summary of the Invention: See MPEP § 608.01(d). A brief summary or general statement of the invention as set forth in 37 CFR 1.73. The summary is separate and distinct from the abstract and is directed toward the invention rather than the disclosure as a whole. The summary may point out the advantages of the invention or how it solves problems previously existent in the prior art (and preferably indicated in the Background of the Invention). In chemical cases it should point out in general terms the utility of the invention. If possible, the nature and gist of the invention or the inventive concept should be set forth. Objects of the invention should be treated briefly and only to the extent that they contribute to an understanding of the invention.
- (h) Brief Description of the Several Views of the Drawing(s): See MPEP § 608.01(f). A reference to and brief description of the drawing(s) as set forth in 37 CFR 1.74.
- (i) Detailed Description of the Invention: See MPEP § 608.01(g). A description of the preferred embodiment(s) of the invention as required in 37 CFR 1.71. The description should be as short and specific as is necessary to describe the invention adequately and accurately. Where elements or groups of elements, compounds, and processes, which are conventional and generally widely known in the field of the invention

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described and their exact nature or type is not necessary for an understanding and use of the invention by a person skilled in the art, they should not be described in detail. However, where particularly complicated subject matter is involved or where the elements, compounds, or processes may not be commonly or widely known in the field, the specification should refer to another patent or readily available publication which adequately describes the subject matter.

- (j) Claim or Claims: See 37 CFR 1.75 and MPEP § 608.01(m). The claim or claims must commence on separate sheet or electronic page (37 CFR 1.52(b)(3)). Where a claim sets forth a plurality of elements or steps, each element or step of the claim should be separated by a line indentation. There may be plural indentations to further segregate subcombinations or related steps. See 37 CFR 1.75 and MPEP § 608.01(i)-(p).
- (k) Abstract of the Disclosure: See MPEP § 608.01(f). A brief narrative of the disclosure as a whole in a single paragraph of 150 words or less commencing on a separate sheet following the claims. In an international application which has entered the national stage (37 CFR 1.491(b)), the applicant need not submit an abstract commencing on a separate sheet if an abstract was published with the international application under PCT Article 21. The abstract that appears on the cover page of the pamphlet published by the International Bureau (IB) of the World Intellectual Property Organization (WIPO) is the abstract that will be used by the USPTO. See MPEP § 1893.03(e).
- (l) Sequence Listing. See 37 CFR 1.821-1.825 and MPEP §§ 2421-2431. The requirement for a sequence listing applies to all sequences disclosed in a given application, whether the sequences are claimed or not. See MPEP § 2421.02.

### ***Drawings***

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: element number 1-7 from page 4 of the specification. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should

include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are objected to under 37 CFR 1.83(b) because they are incomplete. 37 CFR 1.83(b) reads as follows:

When the invention consists of an improvement on an old machine the drawing must when possible exhibit, in one or more views, the improved portion itself, disconnected from the old structure, and also in another view, so much only of the old structure as will suffice to show the connection of the invention therewith.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the

examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

Claims 3, 5, 10-11, 14 and 19 objected to because of the following informalities:

- a) on line 3 of claim 3, it appears that "atleast" should read -- at least --;
- b) on line 2 of claim 5, "LED" should read -- light source -- to provide antecedent basis;
- c) on line 4 of claim 10, it appears that "the test solution" should read -- the test sample -- to provide antecedent basis;
- d) on line 1 of claim 11, it appears that "current to voltage converter" should read -- means to convert the current signal to voltage -- to provide clear antecedent basis;
- e) on line 3 of claim 14, it appears that "the test solution" should read -- the test sample -- to provide antecedent basis;
- f) on line 1 of claim 19, it appears that "the present device" should read -- the device -- to provide antecedent basis.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.



Claim 1-2, 11-12, 16 and 20 rejected under 35 U.S.C. 102(b) as being clearly anticipated by Thistlethwaite et al (5,402,240).

Thistlethwaite et al teach of an apparatus in accordance with figures 2-4 comprising of a light source (11; figure 4) for emitting light of specific wavelength, a means to control the intensity of light (lamp regulator; figure 3a) from the light source (11; figure 4), a glass cuvette for holding the test sample through which the light is passed, a cuvette holder (22; figure 4) for holding the glass cuvette, a photodetector (16; figure 4) for detecting the light transmitted by the test sample, a means (line 52; col 16) to convert the output current signal from the photodetector to voltage, circuitry enabling display on a display unit (4; figure 2) and a power supply for supplying power to different components of the device. The recitation "measurement of gossypol concentration after color development" in claim 1 and "wherein the gossypol is selected from the group consisting of deoiled cake, cottonseed and cottonseed oil" of claim 2 has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

With regards to claim 20, the apparatus is low cost, portable and rugged and measures gossypol in the range of  $\pm 2$  % error. Examiner notes that Thistlethwaite et al

is silent of the range of the error but believes that it is an inherent part of the apparatus since the present invention does not have structural differences from the prior art.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3-10, 13-15, and 17-19 rejected under 35 U.S.C. 103(a) as being unpatentable over Thistlethwaite et al (5,402,240).

Thistlethwaite et al teach of an apparatus in accordance with figures 2-4 comprising of a light source (11; figure 4) for emitting light of specific wavelength, a means to control the intensity of light (lamp regulator; figure 3a) from the light source (11; figure 4), a glass cuvette for holding the test sample through which the light is passed, a cuvette holder (22; figure 4) for holding the glass cuvette, a photodetector (16; figure 4) for detecting the light transmitted by the test sample, a means (line 52; col 16) to convert the output current signal from the photodetector to voltage, calibration circuitry enabling display on a display unit (4; figure 2) wherein the display unit displays at least 3 ½ digits (claim 3) and a power supply for supplying power to different components of the device. The recitation "measurement of gossypol concentration after color development" in claim 1 and "wherein the gossypol is selected from the group consisting of deoiled cake, cottonseed and cottonseed oil" of claim 2 has not been given patentable weight because the recitation occurs in the preamble. A preamble is

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generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

Furthermore, examiner notes that a recitation of the intended use (gossypol concentration) (claims 3 and 4) of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

With regards to claims 3-4, 7-8, 10, 13-15, and 17-18, Thistlethwaite et al lacks the teaching of the light source being an LED of 5 mm having intensity of 125 mcd, view angle of 24.degree, peak wavelength of 635 nm, power dissipation of 50 mW, the display being in milligram/litre and parts per million (ppm), path length of the glass cuvette being 17 mm, a cuvette having a diameter of 17 mm, height of 5 cm and a capacity of 5ml, the photo detector BPW 21 having package of TO 5, effective area of detection of 5.9 mm diameter wavelength range of 460-750 nm and sensitivity of 7 nA/lux is used to detect the transmitted/absorbed light through the test solution, the log amplifier is TL 441 IC, the calibration circuit being a 10K POT, the power supply being a 6-V battery for the log amplifier, photodetector and other integrated chips and a 9-V battery for the display unit, the results being displayed on a computer through CC<sup>+</sup>, and a software VISIDAQ being used for data acquisition, calculation and control application.

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At the time of the invention, it would have been obvious to one of ordinary skill in the art to replace the broad teachings of the elements with the specifics since in all the cases, the specifics are commercially available functional equivalents of the teachings and since applicant has not disclosed that the use of the specifics solves any stated problem, has any specific benefit, or is for any particular purpose and it appears that the invention would perform equally well as a functional equivalent with the specifics of above.

With regard to claim 5, Thistlethwaite et al lacks the teaching of the means used to control the intensity of light from light source being a multiturn potentiometer. It would have been an obvious matter of design choice to use a multiturn potentiometer to control the intensity of light, since applicant has not disclosed that use of potentiometers solves any stated problem, has any specific benefit, or is for any particular purpose and it appears that the invention would perform equally well as a functional equivalent with the potentiometer.

With regards to claim 6, Thistlethwaite lacks the teaching of the cuvette being made up from Borosil glass. At the time of the invention, it would have been obvious to one of ordinary skill in the art to make the cuvette using Borosil glass which is commercially available since applicant has not disclosed that the use of Borosil glass as opposed to using an other commercially available glass solves any stated problem, has any specific benefit, or is for any particular purpose and it appears that the invention would perform equally well as a functional equivalent with the Borosil glass.

With regards to claim 9, Thistlethwaite lacks the teaching of cuvette holder is made up from aluminum alloy, which is blackened.

Official Notice is taken that the use of blackened aluminum alloy to manufacture a cuvette holder is old and well known in the art. See In Re Malcolm 1942C.D.589:543 O.G.440. At the time of the invention, it would have been obvious to one of ordinary skill in the art to use blackened aluminum alloy to manufacture the cuvette holder since it is well known in the art to blacken an object to minimize unwanted reflection of light off the object which would provide a more accurate measurement.

Several facts have been relied upon from the personal knowledge of the examiner about which the examiner took Official Notice. Applicant must seasonably challenge well known statements and statements based on personal knowledge when they are made. In re Selmi, 156 F.2d 96, 70 USPQ 197 (CCPA 1946); In re Fischer, 125 F.2d 725, 52 USPQ 473 (CCPA 1942). See also In re Boon, 439 F.2d 724, 169 USPQ 231 (CCPA 1971) (a challenge to the taking of judicial notice must contain adequate information or argument to create on its face a reasonable doubt regarding the circumstances justifying the judicial notice). If applicant does not seasonably traverse the well-known statement during examination, then the object of the well known statement is taken to be admitted prior art. In re Chevenard, 139 F.2d 71, 60 USPQ 239 (CCPA 1943). A seasonable challenge constitutes a demand for evidence made as soon as practicable during prosecution. Thus, applicant is charged with rebutting the well-known statement in the next reply after the Office action in which the well known statement was made.

Claim 19 rejected under 35 U.S.C. 103(a) as being unpatentable over Thistlethwaite et al (5,402,240) in view of Lundsgaard et al (5,525,518).

Thistlethwaite et al teach of an apparatus in accordance with figures 2-4 comprising of a light source (11; figure 4) for emitting light of specific wavelength, a means to control the intensity of light (lamp regulator; figure 3a) from the light source (11; figure 4), a glass cuvette for holding the test sample through which the light is passed, a cuvette holder (22; figure 4) for holding the glass cuvette, a photodetector (16; figure 4) for detecting the light transmitted by the test sample, a means (line 52; col 16) to convert the output current signal from the photodetector to voltage, calibration circuitry enabling display on a display unit (4; figure 2) and a power supply for supplying power to different components of the device. The recitation "measurement of gossypol concentration after color development" in claim 1 and "wherein the gossypol is selected from the group consisting of deoiled cake, cottonseed and cottonseed oil" of claim 2 has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

Thistlethwaite et al lacks the teaching of the device being based on Lambert Beer's Law.

Lundsgaard et al teaches of using Lambert Beer's Law to compute concentration.

At the time of the invention, it would have been obvious to one of ordinary skill in the art to use the well known way according to Lambert Beer's Law as taught by Lundsgaard to compute concentration in Thistlethwaite et al's device since it is well known in the art that Lambert Beer's Law provides an accurate calculation of concentration in a transmission/absorption device and thus would provide a more precise and accurate apparatus.

Furthermore, examiner notes that a recitation of the intended use (gossypol concentration) of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

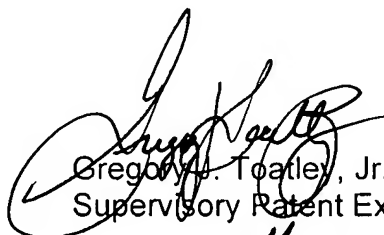
**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amanda H Merlino whose telephone number is 571-272-2421. The examiner can normally be reached on Monday and Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory J Toatley, Jr. can be reached on 571-272-2800 ext 77. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Amanda H Merlino *ah*  
Patent Examiner  
Art Unit 2877  
May 5, 2006

  
Gregory J. Toatley, Jr.  
Supervisory Patent Examiner  
15 May 2006